WP(C) 4512/2001
BEFORE
HON'BLE MR JUSTICE D.BISWAS, CHIEF JUSTICE(ACTING)
HON'BLE MR. JUSTICE B.P.KATAKEY

B.P. Katakey, J

By this writ petition, the petitioner who was the original applicant before the Central Administrative Tribunal, Gauhati Bench, Guwahati has challenged the order dated 26.4.2001 passed by the learned Tribunal in O.A. No. 343/99 dismissing the Original Application filed by the applicant challenging the order dated 23.9.99 issued by the Senior Superintendent of Post Offices appointing the respondent No.5 Sri Jogesh Das as Extra Departmental Branch Post Master of EDBO Jogi Pathar Branch.

We have heard Mr MA Sheikh, learned counsel for the petitioner and Mr C Baruah, learned Central Govt. Counsel appearing on behalf of the official respondents. None appears for the respondent No.5.

Mr Sheikh, learned counsel for the petitioner challenging the order passed by the learned Tribunal has submitted that the selection and appointment of the respondent No.5 as Branch Post Master is contrary to the employment notice dated 5.4.99 inasmuch as, the petitioner having received more marks than the marks obtained by the respondent No.5 in the HSLC examination, he ought to have been selected for appointment and also on the ground that the respondent No.5 does not fulfill the conditions contained in Clause 4 of the employment notice in so far it relates to having landed property covered by K.P. patta in his own name.

It appears from the order impugned in the present writ petition that the learned Tribunal has rejected the contention of the petitioner on the ground that the authority before making selection for appointment has made an enquiry relating to having landed property of each of the candidates and found that the respondent No.5 who was selected and appointed owns landed property covered by K.P. patta in the village in which the post office was established. It also appears from the documents annexed as Annexure-1 to the affidavit-in-opposition filed by the respondents that necessary certificate was issued by the Sub Deputy Collector, Nagarbera certifying that the respondent No.5 has landed property covered by K.P. patta in his name bearing Dag No. 652 of Patta No. 159 (land measuring 1 bigha 3 lecha).

The authority having verified the application of each of the candidates, including the respondent no.5 and having found that the respondent No.5 owns the land as required under Clause 4 of the employment notice, in our considered opinion, Clause 4 of the employment notice has duly been fulfilled by the respondent No.5. That apart, it is evident from the documents submitted before the authority, pursuant to such employment notice, by the applicant that though the name of the applicant is Maiuddin, he submitted some documents belonging to Mainuddin of Bamunbari village and though the applicant claims himself to be a resident of No.1 Jogipara Pathar village. The authority has found the said document to be not belonging to the applicant which cannot be disturbed by the Court including the learned Tribunal. Another aspect of the matter is that there is a circular issued by the Govt. of India on 8.3.78 which requires giving first preference to S.C. or S.T. candidates provided he is selected for such engagement. Admittedly, the respondent No.5 is a S.C. candidate and naturally such preference has to be given to the respondent No.5 over any other general candidate.

In view of the aforesaid discussion, we do not find any infirmity in the order passed by the learned Tribunal. Hence, the writ petition is dismissed.